

SENATE COMMITTEE ON JUDICIARY

June 23, 1999 Hearing Room B

7:30 AM Tapes 250 - 251

MEMBERS PRESENT: Sen. Bryant, Chair

Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Duncan

Sen. Nelson

Sen. Tarno

STAFF PRESENT: Bill Taylor, Counsel

Kathy Courtney, Administrative Support

MEASURE/ISSUES HEARD: HJR 87A ñ HJR 94A Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 250, SIDE A		
006	Chair Bryant	Calls hearing to order at 7:45 AM.
<u>HJR 87A WORK SESSION</u>		
023	Chair Bryant	Reviews HJR 87 ñA7 amendments. (EXHIBIT A)
125	Sen. Burdick	Is there an appeal process for someone to claim he/she should be granted victim status?
128	Chair Bryant	No, but one could appeal to a higher court. However, the Oregon Constitution

		limits what courts may do.
<u>HJR 88A WORK SESSION</u>		
175	Chair Bryant	Reviews HJR 88 ñA9 amendments. (EXHIBIT B)
<u>HJR 89A WORK SESSION</u>		
213	Chair Bryant	Reviews HJR 89 ñA9 amendments. (EXHIBIT C)
<u>HJR 90A WORK SESSION</u>		
263	Chair Bryant	Reviews HJR 90 ñA8 amendments. (EXHIBIT D)
304	Sen. Tarno	Do the HJR 90 ñA8 amendments refer to criminal proceedings?
311	Virginia Vanderbilt	Deputy Counsel, Legislative Counsel Yes, criminal proceedings will remain in the HJR 90A language.
315	Sen. Brown	Is the standard of "proof is evident and presumption is strong" a new standard?
335	Vanderbilt	No, that is the existing language in section 14 of the Constitution.
<u>HJR 91A WORK SESSION</u>		
364	Chair Bryant	Reviews HJR 91 ñA9 amendments. (EXHIBIT E)
382	Virginia Vanderbilt	Deputy Counsel, Legislative Counsel Acknowledges an error in HJR 91ñA9 amendments section 1. This section should be replaced with language relating to evidence.
TAPE 251, SIDE A		
<u>HJR 92A WORK SESSION</u>		
008	Chair Bryant	Reviews HJR 92 ñA6 amendments. (EXHIBIT F)
<u>HJR 93A WORK SESSION</u>		

028	Chair Bryant	Reviews HJR 93 ñA9 amendments. (EXHIBIT G)
039	Sen. Burdick	Will this legislation pose lockstep issues?
040	Chair Bryant	No, because it relates to use immunity instead of transactional immunity.
046	Sen. Tarno	Is all relevant evidence also omitted?
050	Chair Bryant	Yes. Discusses the ramification of granting a person use immunity.
<u>HJR 94A WORK SESSION</u>		
066	Chair Bryant	Reviews HJR 94 ñA6 amendments. (EXHIBIT H)
082	Sen. Burdick	Expresses concern about amending the Oregon Constitution. Some of these changes can be made by statute, correct?
086	Chair Bryant	Yes, and I may choose to pursue that course of action later. Inquires if HJR 94A will prohibit future legislative assemblies from amending sentencing law.
113	PamelaWood	Department of Justice Discusses how HJR 94A may prohibit future legislative assemblies from amending sentencing law in technical and substantive ways. Clarifies that legislative assemblies may impact sentencing law by statute. Sentencing courts act only by statutory provisions.
180	Mark Gardner	Special Counsel to the Attorney General Explains that the Legislature may act in individual cases, but it may not delegate sentencing law to individual agencies.
199	Counsel Taylor	Can the sentencing court delegate its authority to another agency?
201	Gardner	Yes, but the sentencing court must determine relief.
210	Sen. Burdick	Does HJR 94A prevent future legislative assemblies from relieving elderly prisoners?
220	Gardner	Yes, unless their cases would return to sentencing court.
227	Sen. Burdick	Does HJR 94A force the Legislature to maintain elderly prisoners who pose no public safety risk in facilities at high cost?

230	Gardner	Explains that sentences dictate the specific custodial authority and time frame but not specific custodial provisions.
247	Sen. Duncan	Does HJR 94A allow for extended leaves?
250	Wood	Yes. Discusses leave provisions including boot camp and conditional releases.
291A	Chair Bryant	Would release of elderly prisoners be allowed?
300	Gardner	Yes, as long as the Legislature acts through the sentencing court.
341	Sen. Brown	If Measure 11 were overturned, would HJR 94A stand?
346	Gardner	Explains that Constitutional amendments trump statutory provisions.
356	Sen. Burdick	Is HJR a burden on sentencing courts?
363	Gardner	No, HJR 94A adds consistency and an ability to act.
399	Sen. Courtney	Does Oregon have Murder without the possibility of parole?
405	Gardner	Yes, in some Aggravated Murder cases?
TAPE 250, SIDE B		
001	Sen. Courtney	Will the HJR 92 proposed 11-1 verdict apply to these cases?
005	Gardner	Discusses possible sanctions for Aggravated Murder which include the death penalty, a life sentence , and a 30-year minimum sentence.
056	Sen. Courtney	Is a simple majority required to pass HJR 87A ñ 94A on the floor?
057	Chair Bryant	Yes, as amended.
075	Sen. Burdick	Asserts that the Legislature owes the voters one item relating to victims' rights, not 8 items.
089A	Chair Bryant	Recesses hearing at 8:48 AM.
090A	Chair Bryant	Resumes hearing at 2:40 PM. Discusses Senate Judiciary Committee hearing

		schedule for HJR 87A through HJR 94A. Adjourns hearing at 2:45 PM.
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Submitted By, Reviewed By,

Kathy Courtney, Sarah Watson

Administrative Support Office Coordinator

EXHIBIT SUMMARY

- A. HJR 87A-A7 proposed amendments, Bill Taylor, 1p**
- B. HJR 88A-A9 proposed amendments, Bill Taylor, 1p**
- C. HJR 89A-A9 proposed amendments, Bill Taylor, 1p**
- D. HJR 90A-A8 proposed amendments, Bill Taylor, 1p**
- E. HJR 91A-A9 proposed amendments, Bill Taylor, 1p**
- F. HJR 92A-A6 proposed amendments, Bill Taylor, 1p**
- G. HJR 93A-A9 proposed amendments, Bill Taylor, 1p**
- H. HJR 94A-A6 proposed amendments, Bill Taylor, 1p**